

DEC 09 2004

Atty. Dkt. No. 071344-0304

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Hein et al.  
Title: TRANSGENIC PLANTS  
EXPRESSING ASSEMBLED  
SECRETORY ANTIBODIES  
Appl. No.: 09/512,568  
Filing Date: 02/24/2000  
Examiner: Collins, Cynthia  
Art Unit: 1638

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.  <u>Germaine Sarda</u> (Printed Name) <u>[Signature]</u> (Signature)  <u>March 15, 2004</u> (Date of Deposit)
---

**TERMINAL DISCLAIMER**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, The Scripps Research Institute, having its principal place of business at 10550 N. Torrey Pines Road, TPC8, La Jolla, California 92037 (hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/512,568, filed 02/24/2000, which claims priority to U.S. Patent Application No. 07/591,823, filed 10/02/1990, by virtue of an Assignment filed and recorded on 01/10/1992, on Reel/Frame 5967/0324, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A. Further, your Petitioner represents that it is the owner of U.S. Patent No. 6,417,429, which issued on U.S. Patent Application No. 09/199,534, filed 11/25/1998, which also claims priority to U.S. Patent Application No. 07/591,823.

Your Petitioner, The Scripps Research Institute, hereby disclaims the terminal part of the term of any patent granted on the above identified patent application which would extend beyond the full statutory term, as shortened by any terminal disclaimer, of U.S. Patent 6,417,429,

-1-

Atty. Dkt. No. 071344-0304

and hereby agrees that any patent so granted on the above identified patent application shall be enforceable only for and during such period that the legal title to U.S. Patent 6,417,429 shall be the same as the legal title to any patent granted on the above identified patent application, this agreement to run with any patent granted on the above identified patent application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the above identified patent application, prior to the full statutory term of U.S. Patent 6,417,429 as defined in 35 U.S.C. §§154-156 and 173, in the event that U.S. Patent 6,417,429 expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate or as a result of an interference proceeding, or is otherwise not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of U.S. Patent 6,417,429 as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the above identified patent application that would extend beyond the present termination of U.S. Patent 6,417,429, in the event that such present term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the above identified patent application to the extent provided by law.

The undersigned, being the Attorney of Record for the above identified patent application, and duly authorized to act on behalf of Petitioner, certifies that he has reviewed the Assignment attached as APPENDIX A, and to the best of his knowledge and belief, legal title to the above identified patent application and U.S. Patent 6,417,429 rests with Petitioner, The Scripps Research Institute. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true;

Atty. Dkt. No. 071344-0304

and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

Date March 15, 2004By Barry Wilson

FOLEY &amp; LARDNER LLP

Customer Number: 30542

Telephone: (858) 847-6722

Facsimile: (858) 792-6773

Barry S. Wilson  
Attorney for Applicant  
Registration No. 39,431